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LABOR LAW 'REFORM'

Another Sellout Of the Workers?

DAVID BACON

It has been an age since working people saw labor law as any real protection, and now, as the Clinton Administration's Commission on the Future of Worker-Management Relations readies its preliminary report on labor law reform, many workers and unions fear that instead of serving the majority of America's people, Washington will tailor the rules even further to fit the needs of corporate special interests.

A year ago Secretary of Labor Robert Reich suggested the direction in which the commission was heading with his observation that "the jury is still out on whether the traditional union is necessary for the new workplace." At the time, a series of hearings were being held throughout the country at which workers explained to commissioners the realities of work life in America. They spoke of their powerlessness in the absence of a union; of the terror accompanying organizing drives; of the endless delays by the National Labor Relations Board, to the benefit of unionbusting employers; of employers who regularly and with impunity fire workers for organizing activities; of the further obstacles to negotiating a first contract; of strikes broken by scabs who often as not are made permanent

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replacements; of companies that close and reopen, changing names and owners and tossing out union contracts undeterred.

Presented with such a litany of abuses against workers, the commissioners must not have been overly surprised that most employers took the position that little reform of the labor law is needed. Indeed, it was union pressure for a far-reaching review of the law that pushed the Administration to set up the commission. But as the commissioners draft the findings of their investigation—to be released in late May, with recommendations to come in November—it appears that rather than propose steps to enforce existing rights or expand them, the Administration's advisers will strike at the heart of workers' fundamental right to form independent organizations. For months now people have been talking darkly of the return of the company union.

Such "unions" are prohibited under Section 8(a)(2) of the National Labor Relations Act, *a k a* the Wagner Act. The law was written in the 1930s, after years in which employer-dominated unions had been established to prevent workers from organizing unions of their own. John D. Rockefeller, for example, drew up the Colorado Industrial Plan for worker-management cooperation in 1914. "Until labor and capital join hands and recognize their interest is a common interest," Rockefeller announced, " . . . there can be no progress." Just weeks earlier his goons had slaughtered the wives and children of striking workers in the infamous Ludlow massacre.

Although conditions have changed since then (instead of being killed outright, strikers' families today are starved and driven into penury), American corporatists articulate a vision of progress that's not very different from Rockefeller's. Its watchword is "cooperation" and its symbol is the worker-management team. For the past twenty years such in-plant committees have become increasingly common in both union and nonunion settings. In every case the object is to undermine the idea that workers and bosses have distinct, and fundamentally antagonistic, interests and to get the two sides to work together for a common corporate goal: increased productivity and competitiveness, more plainly understood as doing more work in less time with fewer people for lower pay.

For bosses, there's only one problem with the various schemes for labor-management cooperation: Many of them are illegal. In 1992 the N.L.R.B. ruled that worker-management committees are de facto company unions, and are thus prohibited under Section 8(a)(2), where they are used to campaign against unions in organizing drives or where they are set up without negotiations in a union workplace.

The N.L.R.B.'s decision involved a small electronics company in Indiana called Electromation, and it sent a special shudder through the high-tech manufacturing sector, where the rate of unionization is extremely low and experimentation with cooperative schemes is extensive. This is also the sector in which President Clinton and Robert Reich have placed their greatest hopes for the U.S. economy—the "high performance," cutting-edge "workplace of the future," where, by their account, teams of highly trained and well-paid "symbolic analysts" will remake the country's industrial landscape.

The President and Vice President have made numerous high-profile visits to facilities in California's Silicon Valley. Valley executives were prominent in Clinton's campaign, and

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his head of the Council of Economic Advisers, Laura D'Andrea Tyson, has strong ties to the industry. Just recently the Administration granted $1 billion in subsidies to U.S. manufacturers of flat-panel displays, used in portable computers and military electronics.

Since the Electromation decision, high-tech companies along with industry groups such as the American Electrical Association (A.E.A.) have been the most vocal in urging the government to modify or even eliminate Section 8(a)(2). And there is no doubt that it figures high in the calculations of Washington. Last year, when Reich and Commerce Secretary Ron Brown unveiled the commission (a joint project of the Labor and Commerce departments), they stated that its central mission would be "to make recommendations concerning what changes, if any, are needed to improve productivity through increased worker-management cooperation and employee participation." Thus was the stage set for one of the most volatile issues currently being weighed in Washington.

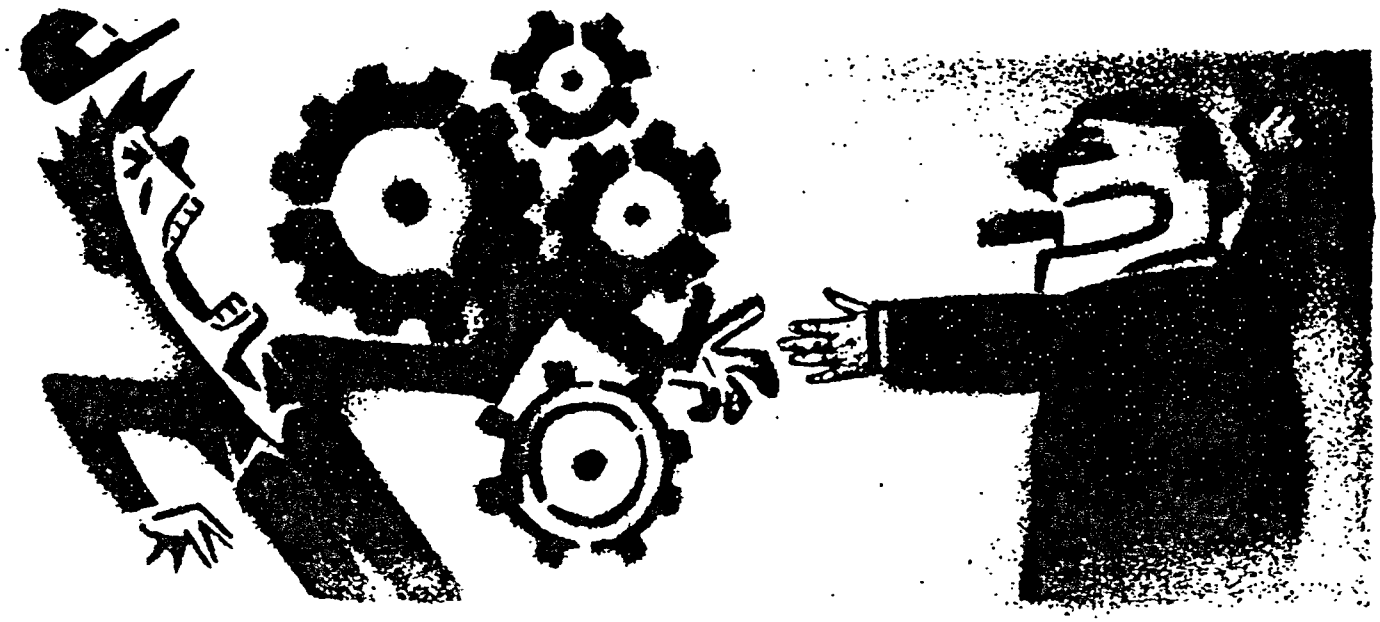
"If we bring the Administration a traditional package [of labor law reforms], it'll die on the vine," Thomas Kochan, a commissioner and M.I.T. management professor, told me in January following a hearing in San Jose, California. That hearing, revealing both traditional and "cutting edge" abuses of workers, drew the lines in the labor law debate more clearly than had any of the commission's previous public meetings.

The hearing was convened by Joint Venture: Silicon Valley, an association of 100 top executives of the largest high-tech corporations along with a sprinkling of government officials, two labor leaders and almost no grass-roots community participation. Joint Venture acted at the request of Martin Manley, the Labor Department's Assistant Secretary for the American Workplace, who then bowed out of the organizing process and consistently refused to be interviewed.

Under the klieg lights in San Jose's cavernous convention center, witnesses gave the commission a firsthand look at the "high performance workplace." According to Pat Hill Hubbard, senior vice president of the A.E.A., "employees have become decision-makers, and management has practically disappeared." Doug Henton, of Joint Venture, was even more blunt: "Unions as they have existed in the past are no longer relevant. Labor law of forty years ago is not appropriate to twentieth-century economics." (Needless to say, he did not go on to argue for a shortened workweek, guaranteed annual income, sectoral bargaining, prohibition of overtime, or corporate responsibility for temporary and contracted workers, all "nontraditional" elements advocated by progressive unions.) Kirby Dyess, vice president for human relations at Intel, introduced Phuli Siddiqi, a worker who recited the "Intel values" of quality, discipline, risk-taking and customer orientation. Siddiqi also described "worker ownership of projects and products," and the company's "pat on the back" program. Missing was mention of wages, benefits, job security or any of the normal day-to-day concerns that plague most workers. But then again, as Dyess declared: "There are no more jobs at Intel. We just have people and work to be done."

In a sense, Dyess's remark was unwittingly candid about the industry as a whole. Despite its public image, Silicon Valley is becoming a vast sweatshop. Stable, well-paying production jobs in the large plants are disappearing, while the contingent work force expands. Big manufacturers are increasingly turning to subcontractors for janitorial and food services, as well as for testing computer chips and assembling circuit boards. The contractors compete for business by cutting wages and operating under terrible conditions, almost always with immigrant labor, while the manufacturers absolve themselves of liability. Recently, labor unrest has been on the rise. Janitors have mounted militant campaigns that have won agreements with contractors who clean for Apple and Hewlett-Packard. The valley's first strike of production workers flared up a year ago at a contract assembly plant, Versatronex [see Elizabeth Kadetsky, "High-Tech's Dirty Little Secret," April 19, 1993].

Behind the upbeat presentations, industry representatives made it clear that they hoped the government would conform labor law to their priorities of increased "flexibility." Dyess said that Intel would turn up the heat on Congress to get rid of Section 8(a)(2), and expected other companies in the A.E.A. to do the same.



In the early 1970s, Robert Noyce, one of Intel's founders, stated that "remaining nonunion is an essential for survival for most of our companies." Dyess says this still represents the company's position. Her direct comments about 8(a)(2), however, were made outside the hearing, because, she said, the A.E.A. had told her to avoid specifics in Intel's testimony.

Instead, it was workers who described the real effects of worker-management teams in nonunion plants. At National Semiconductor's plant in Santa Clara, Romie Manan testified, the company's labor-management scheme was intended to fight unions. Manan was a shop-floor leader in the late 1970s and early 1980s trying to organize for the United Electrical Workers. He explained how National had told workers that they had to team up with management in order to beat Japanese competition. Fearing for their jobs, he said, workers agreed.

Workers may end up with both company unions and no relief from antiunion elements of the law.

"Increasing the company's profitability, they said, would increase our job security," Manan testified. "That was the purpose of the teams—to make us more efficient and productive. . . . We became more efficient. Our yield rate on each wafer . . . went from 80 percent to 95 percent. . . . Then the company took the ideas contributed by the experienced work force in Santa Clara, which they got through the team meetings, and used them to organize new fabs [fabrication lines] with inexperienced workers in Arlington, Texas, where wages are much lower. Then the experienced workers lost their jobs."

In the middle of wage cuts and National's first big waves of layoffs, "we tried to organize a union in my plant and in others," Manan said. "All the union leaders in my plant except for myself were fired. Most of the union activists in other plants were fired as well. Although we filed charges with the National Labor Relations Board, no one was ever rehired, and in many cases the board wouldn't even issue a complaint." Manan himself lost his job in February, joining more than 30,000 semiconductor workers on production lines in the valley who have lost their jobs in the past ten years.

The A.F.L.-C.I.O. national leadership has been convinced that the commission—made up largely of liberal academics and former labor secretaries—is on its side. The federation has thus paid little attention to the commission's work, concentrating almost exclusively on passage of the Cesar Chavez Workplace Fairness Act, which would outlaw permanent replacements in the first ten weeks of a strike. The two-year strike of more than 500 Teamsters at the Diamond Walnut plant in Stockton, California, has become a national symbol of how incredibly difficult it is to win a strike today. Yet undermining Section 8(a)(2) and enshrining worker-management teams into law might pose just as large an obstacle for workers trying to organize militant and democratic unions.

The potential evisceration of 8(a)(2) has barely ruffled many A.F.L.-C.I.O. leaders who have bought into the rhetoric of "cooperation." While some union leaders believe 8(a)(2) remains an essential element in protecting the right of workers to control their own independent organizations, others believe that cooperation is beneficial and that 8(a)(2) should be traded for other reforms. But it's not unlikely that workers could lose 8(a)(2) and get nothing in return.

In the only real exchange between commissioners and witnesses during the hearing in San Jose, both Kochan and commissioner Doug Fraser, past president of the U.A.W., tried to coax sympathy for such a trade-off out of industry representatives. Would they, for instance, accept responsibility for contingent workers, and allow workplace committees truly to represent workers on the issues of wages and conditions?

"We're not looking for someone to represent employees," responded Deborah Barber from Quantum Corporation. "The concept of representation seems archaic," added Cheryl Fields-Tyler from the A.E.A. When Fraser asked what alternatives existed for workers unhappy with management, Debra Engel, vice president of 3-Com, said, "The company has an open-door policy."

Commissioner Richard Freeman, a professor of economics at Harvard who once wrote approvingly of a trade [see Alexander Cockburn, "Beat the Devil," May 17, 1993], now says, "There is some fear that in the business community no one is willing to give up anything, that there's no trade."

So the problem for the commission seems to be what to give labor while lifting the proscription against company unions in the name of competitiveness. The Administration, which Freeman acknowledges is likely to be "especially sensitive to the concerns of leading-edge companies," has so far thrown no bones in labor's direction. The striker replacement bill lies in the Senate a few votes short of the sixty needed to override a filibuster. Despite election promises, Clinton has done nothing to get those votes. Labor activists are now trying to get the bill onto the floor, even if it means a filibuster, to force legislators to choose sides at a time when the commission is deciding what to stress in its report.

Meanwhile, progressive unionists such as those in the Jobs With Justice coalition argue for immediate union recognition if a majority of workers sign union cards, increased penalties on employers who fire workers for trying to organize, arbitration of first contracts, protection of existing contracts when companies reorganize, and a mechanism to hold manufacturers responsible for the actions of their subcontractors. And rather than workplace cooperation, they advance the idea of union cooperation, such as the Campaign for Justice has attempted in Silicon Valley, where separate internationals formed a unified organizing campaign strategy and contribute personnel to a common pool.

The commission's findings will probably reflect some labor concerns, but then the battle will take place to influence its recommendations. Steve Lerner, one of the most successful organizers in the country and a leading strategist in the Service Employees Union's Justice for Janitors campaign, recalled recently that the Wagner Act was passed in 1935 only in response to large-scale strikes and organizing drives.

"Workers will get better laws," Lerner said, "not because that's a good idea but because the level of conflict is so disruptive that a rational system is better."

Robert Gumpert/Impact Visuals

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Competition around the world: an auto worker in GM-Toyota's NUMMI plant (top); a textile worker in a Mexican maquiladora (center); and a 10-year-old in a Brazilian coal furnace.

Should We All *Compete* Against Each Other?

by Jane Slaughter

Every newspaper, every politician, every corporate executive, every manager, and many labor leaders are talking about "competitiveness." Improving America's competitiveness, or their firm's competitiveness, is *the* goal of the 1990s. Bill Clinton is determined to be the "competitiveness President."

But what does this buzzword really mean? The book *Unions and Economic Competitiveness*, from the union-backed Economic Policy Institute, defines it as "the ability of domestic producers to succeed in international markets."

Just how does a firm "succeed"? In the business world, "success" is not measured by the quality of your product, or by the size of your market share, or even by the productivity of your workforce. In the business world there is only one measure of a firm, and that is its profit rate. And not just any profit, but a profit large enough to satisfy stockholders and make them want to invest in your firm rather than some other.

All the other things companies do—from applying for the Malcolm Baldrige Quality Award to moving a plant to Mexico—are means toward that end.

It's only natural that the gurus of competitiveness—from Bill Clinton and Robert Reich to Lee Iacocca and Lane Kirkland—prefer that term to "profitability." Somehow it wouldn't come off so well for the newly-elected President to say that the American people must sacrifice in order to restore "America's profitability."

WRONG STARTING POINT

Throwing themselves into the competitiveness race is exactly the wrong place for unions to start. Here's why:

1. No finish line. As has been amply demonstrated over the last decade, once workers get into competition with each other, there is no sure finish line, no place where the union can stop the merry-go-round and get off.

Auto workers are a well-known example. In 1979 (and again in 1980 and 1981), Chrysler workers took concessions because the company was losing money. The competition, although this was not mentioned often, was Ford and GM.

A little later in the decade, with wages falling behind inflation, all Big Three workers were asked to sacrifice; this time the competition was "the Japanese."

In the 1990s, auto workers are facing layoffs and cuts in retiree benefits—and now the competition comes from Mexico.

No one argues seriously that American workers can compete with Mexican wage levels.

2. Fewer jobs. The motivation for unions to join the drive for competitiveness is to save jobs. But if there is one tactic that is essential to employers' plans for competitiveness, it is eliminating jobs—at least the full-time, reasonably paid jobs that can support a family.

Contracting out is *the* trend of the 1990s. Temporary employment grew 10 times faster than overall employment between 1982 and 1990. Taken together, temporary, contract, and part-time workers now make up a quarter of the workforce.

BankAmerica Corp., the nation's second-largest bank, is an example of what competitiveness means for jobs. Ten years ago, most employees were full-time. Soon, only 19% will work full-time, and nearly 60% will work fewer than 20 hours a week and receive no benefits.

The *Wall Street Journal* said, "BankAmerica reported record profits in each of the past two years. It says it is taking these steps to improve profits even more..."

WALL STREET TELLS ALL

In a remarkable article March 16, the *Journal* summed up the consequences of what it called "the re-engineering movement" (team concept and the push for productivity):

> Some estimates call for it to wipe out as many as 25 million jobs; the private sector today encompasses roughly 90 million jobs...
>
> "We can see many, many ways that jobs will be destroyed, but we can't see where they will be created," says John Skerritt of Andersen Consulting
>
> Re-engineering can be great for the performance of individual companies [that is, for their competitiveness], but what about the economy as a whole? Virtually all economists agree than re-engineering ultimately should bring about faster economic growth...and improved living standards...
>
> The bad news comes in the dislocation of all those people whose current jobs will disappear... With millions being laid off, nearly everyone may feel threatened, and with good cause. For most workers, job security will be the most tenuous since the Depression...
>
> Re-engineering could knock out between a million and two-and-a-half million jobs each year for the foreseeable future.
>
> The new job shrinkage should not be confused with [the recent layoffs by IBM, GM, Boeing, and Sears. Those] reflect shrunken demand for the companies' output.
>
> Productivity-related job losses are of a distinctly different variety. They are staff reductions made by healthy [i.e., competitive] companies...

It used to be that many workers expected to have a job when the economy was in good shape, or their employer was, and to lose out when either went sour. In the re-engineered present and future, you lose your job even in a healthy company.

Earl Dotter

The competitiveness drive encourages lousy jobs: harder, faster, more regimented.

3. Lousy jobs. Not only are there fewer jobs in a company bent on competitiveness, the remaining jobs are lousy—harder, faster, more regimented—and less secure.

On top of contracting out, the other management trend of the 1990s is Total Quality Management, which translates as management-by-stress. Under TQM (or Continuous Improvement Process or whatever the latest name), workers are expected to find ways to speed themselves up. This is called "participation." The "adviser" (formerly a supervisor) tells team members that they must shrink their numbers, but gives them the power to re-divide the work as they wish.

WIN-WIN

Some economists, academics, and labor officials try to sugar-coat competitiveness. They say that competitiveness is a win-win situation for workers and employers. All we need is to convince employers to adopt a different competitiveness strategy that will benefit both sides.

Ray Marshall, the former Secretary of Labor, is a prominent example of this thinking. He

What Is a Good Job?

There must be a special rung of hell reserved for union reps who tell workers, "Just be glad you have a job." In too many unions, this is how complaints about working conditions are greeted.

But unions were not formed just to help workers hold on to any job, but to improve wages and working conditions on those jobs. The purpose of a union is to take away management's arbitrary power to set pay and production standards, to work workers into the ground.

Unions were formed, in other words, to help workers create *good* jobs.

What is a good job? Surely a really good job would be one that's interesting, that allows you to learn, that gives you control over your work pace. A job that makes you want to come to work in the morning.

Since the dawn of industrialism, at least, most jobs, even the ones considered good, have not fit that description. So we've settled for the other components of a good job: good pay, good benefits, good vacations, reasonable hours, and a work pace that doesn't wear you out by the end of the day, or before you're old enough to retire. A safe job, one that doesn't make you sick.

Under the competitiveness philosophy, good jobs of either type are scarce. And to rub salt in the wound, we are constantly bombarded with propaganda that tells us that lousy jobs are good jobs—that we now are "empowered" and have control over our work lives.

For the sake of competitiveness, give up the idea that you, or certainly your children, can have a stable job. Give up the idea that you should have a job that doesn't give you carpal tunnel syndrome. Like the anti-union worker at Nissan's Tennessee plant, you should just shrug and say, "Everybody's hands hurt."

All this is necessary so that your employer can be competitive.

people learn something quite different. They learn who the enemy really is, and they learn that while there may be limits to what can be done, the NDP is on *their* side fighting, rather than selling, those limits.

It's the difference between laying the groundwork for demoralization and laying the groundwork for mobilization.

The result of demoralization is for each worker to think only individually. The union signs a contract that will speed up work by 30%. The member thinks, not, "What kind of workplace are we leaving to the next generation?" Instead, it's, "Can I make it till retirement?" The conclusion is that it's not worth fighting if you can hang on just a few more years.

The other result is widespread fear. Who wouldn't be afraid, facing alone all the power of corporate capital and its friends in government—without a union behind him or her?

A lot of what passes for apathy in the membership is really fear. And denial. It's easier not to go to the union meeting, because thinking about what's happening is just too frightening.

NOT ECONOMICS BUT POWER

Economists, including new Secretary of Labor Robert Reich, are having a field day under the new Administration. They are full of explanations for why the budget deficit has to be cut, and why all Americans will have to sacrifice to do it.

Here's a dissident view: *the question is not economics, but power.* If working people and social movements were in the streets, supporting each other's causes; if unions used their economic power to show who really keeps the country running; if we formed a new political party and succeeded in capturing Congress and the White House—ways would be found to produce full employment, a short work week, race and sex equality, a humane education system, homes for everyone, and national health care.

The wealth is there; it's just in the wrong hands, and used for the wrong things. In 1990, each full-time U.S. worker produced an average of $49,600 in goods and services. (In Japan and West Germany, the figures were $38,200 and $44,200.)

ALTERNATIVES

Sometimes it seems that the corporate voice—strongly echoed by government—is the only one heard. But there are alternative voices. They start with human values and act from there.

The movements—including the labor movement—which reject competitiveness are not yet strong enough to impose their will on the owners of the economy. But they are pointing in the direction that we need to go. Here are three examples:

The activists who are fighting hard for a single-payer national health care plan are one such voice. They insist that health care is a human right, not a business; competitiveness (as in "managed competition") must be removed from our thinking about taking care of ourselves. Unions, community organizations, senior groups, AIDS activists—all insist that a reformed plan must cover everyone, employed or not.

Since competitiveness is what the North American Free Trade Agreement is all about, the movement against it has, by necessity, used arguments and tactics that reject the dog-eat-dog philosophy. Who will work for less is *not* the bottom line, say NAFTA activists.

Unions and environmentalists are working together, insisting that both their goals can be met. Solidarity activists acknowledge that Mexican workers are on the other side of the border, but not on the other side of the struggle.

The Oil, Chemical and Atomic Workers union puts forth a Working People's Agenda, that, if acted upon by all of labor, would transform the level of political debate in the United States:

1. A massive jobs program equivalent to a wartime mobilization. At the same time, recognition that unrestrained growth will kill the planet we live on.
2. A Worker's Bill of Rights modeled after the G.I. Bill: a Superfund to educate and support workers during the transition to a peacetime and environmentally friendly economy.
3. A single-payer national health care program.
4. Stop NAFTA. Elevate Third World standards on wages, social benefits, and the environment.
5. Restore the right to strike.
6. Workers' right to monitor and if necessary halt operations that threaten life or health.
7. Reform the electoral system to allow working people to contest for power.
8. Child care and family leave.

Most important, the OCAW does not simply talk about these things—it's taking steps to get there. The union wants to help found a labor party, and has committed funds and an organizer to building Labor Party Advocates.

The union's magazine warns, "It is not the time to...be timid... The history of successful reform efforts teaches us that patience and good manners do not get the job done."

* * *

We are not attempting here to spell out all the things our movement needs to be doing and all the groups that are doing them. But Labor Notes readers should take heart from the fact that there is a growing number of clear-headed activists who have not bought the competitiveness philosophy. Their numbers are growing and they are slowly discovering what they have in common. □

Don't Worship Competitiveness

by Bob White

We are being told that we don't need government intervention in building a strong safety net. We are being told that our only goal must be competitiveness and that anything that inhibits that agenda should be changed or discarded. If that means workplace closures, if it means doing away with public services, so be it...

It is about time that these giant business enterprises are told they have no legitimacy, no credentials, no track record to lecture us on fiscal responsibility...

HOLY GRAIL?

Our society cannot and must not be solely about worshiping at the Holy Grail of competitiveness. It must include a priority for a social agenda...

Instead of a war on the deficit, we need a war on unemployment, on poverty. We need policies on employment equity, equality, on child care.

We need politics that support the role of the public sector, both in the delivery of services and in helping shape economic policies by intervening in the marketplace when necessary...

The labor movement cannot represent our members and those outside our movement who need a voice if we buy the corporate line of competitiveness at any cost.

OUR REAL PARTNERS

Sometimes we will be required to take on struggles that seem impossible to win. We must speak out on controversial issues that many times are not popular. We must work with other social action groups with whom we may differ on certain issues, but who are our real partners for social change...

The power structure in our society will rant and rave that unless labor accepts the corporate-Tory competitive free trade agenda, we are living in the past, that we want to protect the status quo. That is absolute nonsense.

What is really turning the clock back? It is a corporate government agenda that takes us back to a dog-eat-dog survival-of-the-fittest society where individuals are encouraged to be only concerned about themselves, where political power is concentrated in few hands, and where democratic institutions like the labor movement and important social programs are constantly under attack.

[From the acceptance speech given by Bob White when he became President of the Canadian Labour Congress.]

promotes a "high wage, high productivity" solution.

Some union leaders have picked up on these ideas. They tell us we can be competitive and have good jobs too. Michael Bennett, for example, president of the UAW local at Saturn, says, "Our strategy is focused around high wages, high skills, and high technology. It allows us to maintain our standard of living and benefits and still compete in the global economy."

These proposals are worth examining. Here's a summary of what Marshall, writing in *Unions and Economic Competitiveness*, says about "high performance systems":

> Mass production is no longer the most competitive way to organize work. More flexibility, quality, and productivity are required. Companies must use leading-edge technology and organize work to reduce waste: better inventory control, the efficient use of labor, quality controls. The system requires better educated, skilled workers who are less tolerant of monotonous work and authoritarian management.
>
> Workers must be willing to learn and to be flexible. They must take responsibility for decision-making, as layers of managers are eliminated. They must be willing to go "all out" to raise productivity. Their incentive is that they have job security.
>
> Unions are necessary because workers need someone to represent their interests, and because you can't have a cooperative relationship between parties with greatly unequal power. Unions and companies can cooperate to make the pie bigger, and then bargain over how to split it.

This would sound great, if we weren't already familiar with what these terms mean in real life.

Inventory control = just-in-time. Efficient use of labor = speedup. Flexibility = no classifications = do whatever management tells you to do. Waste = you.

Marshall's model for the factory of the future is the NUMMI assembly plant, the GM-Toyota joint venture in California. According to Marshall, NUMMI embodies both worker participation and quality and productivity. According to experienced auto workers, both those at NUMMI and those who have visited, NUMMI is working its workers to the bone.

Yet NUMMI still has plenty of job applicants because of a promise of job security for the life of the 12-year joint venture. (Job cuts are made through attrition.)

Here's the deal: the employer gets an extremely hard-working workforce, with record productivity. Employees get to bust their behinds and keep their jobs for a certain time.

Who's winning most in this "win-win" situation?

The competitiveness approach starts with the needs of the corporation. It demands that our values, our education system, our political goals all fall into line with corporate values.

A DIFFERENT STARTING POINT

But unions have a different starting point. They start with human values and needs, and work from there. Our goal has always been to force corporations and governments—as much as we can—to fall in line with union values, not the other way around.

The corporation, for example, starts from the premise that it has too many workers making too high wages. It wants to "slim down," become "lean and mean."

Anyone not brainwashed by corporate thinking, however, can see that the problem in the U.S.—and the world—today is not that there are too many people with jobs. Just the opposite.

Therefore the current management strategy of "lean production" makes no sense when you look at the needs of society as a whole. We need not fewer jobs but more jobs.

Likewise, our population is aging. In most auto plants, for example, the average worker is past 40. Does it make any sense, then, to introduce management-by-stress and make it *harder* for older people to work?

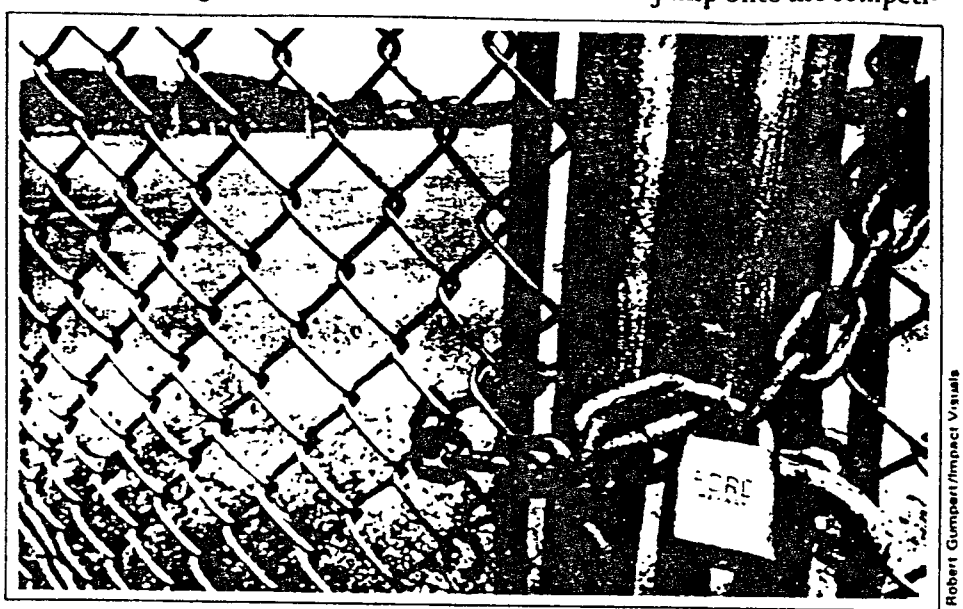
Yes, we live in a society where the corporations have the power and make the rules. But we make a mistake when we accept those rules as givens, and make no effort to impose our own rules—our own values—on the decision-makers.

This is not a new idea. For years unions and other movements fought to curb corporations' arbitrary power, both through bargaining and through legislation.

On many fronts, they won. American companies are no longer allowed to be more competitive by using child labor, or slaves. There is a floor of decency below which companies may not go in their pursuit of competitiveness: minimum wage, nondiscrimination, health and safety standards. Companies are not allowed to tell workers they will have a pension but then renege.

All these laws interfere with management's flexibility. But they were won by movements that were not afraid to intrude on the sacred rights of corporations.

When unions abandon their historic role and jump onto the competitiveness bandwagon, they leave not only their members but all working people rudderless.



Robert Gumpert/Impact Visuals

Where does the competition end?

The same can be said of labor's political parties when they adopt competitive thinking. Buzz Hargrove, president of the Canadian Auto Workers, put it this way to the New Democratic Party, which is now the ruling party in Ontario:

> People are desperate for someone to be clearly fighting on their behalf. This includes how the NDP positions itself relative to the very real constraints that are out there. When the government warns people to "get real" and adopts the arguments and pressures that we regularly hear from business, it leaves people with the feeling that there's not much to do about anything.
>
> If, instead, the government were to identify the constraints, directly challenge them, aggressively stretch them, test to see how far it can in fact go,

Fifteen Years of Union-Management Cooperation

From 'QWL' to 'Reengineering':

by Mike Parker and Jane Slaughter

"Reengineering," "Reinventing," "Agile Institutions," and "Virtual Corporations" lead the crop of management buzzwords that have blossomed this season. From the vantage of the shop floor or the union hall, these have a lot in common with the work reorganization programs that preceded them. But they also reflect a continuing shift, over the last 15 years, in management's attitudes toward its workforce and toward unions.

A look at the history of work reorganization programs reveals that management has mapped a clear road to a union-free economic world where most of us have poor jobs and no job security.

In order to make the claim that both workers and management will benefit, every reorganization scheme contains a list of positive results for the workforce. But the promised benefits rarely show up in the workplace or last longer than the sugar coating on a bitter pill.

Some union advocates of labor-management participation argue this is simply a matter of poor implementation: management doesn't "walk the talk." But mistakes in implementation are not the problem. It is management's goals, behind their adoption of work reorganization, that make it impossible to deliver the promised benefits for working people. Experience has supported this view, as one program after the next has discredited itself and burned the union.

However, even false promises are revealing. They reflect management's view of the power of the labor movement at the time they were made, and the kinds of pledges management must make to keep that power in check.

IN THE BEGINNING...

Quality of Work Life programs came on the scene late in the 1970s. They claimed to be a response to worker alienation, the "blue collar blues."

The idea was that if you improved the conditions of work, absentee problems would decline, quality would improve, and companies would be more profitable. But the focus was to be on improving work life. Productivity and profits were by-products. Indeed, both company and union proponents warned that any attempt to organize around productivity would doom the programs.

With the recession of the early 1980s, there was a shift toward the term Employee Involvement or Employee Participation, to get away from the expectation that the focus should be on improving working conditions. We were encouraged to get beyond the belittling "creature comfort" issues (fans, water fountains), and move on to the more challenging questions of improving productivity and quality.

The worse things get, the more some union leaders lay down our remaining weapons in exchange for the promise of 'partnership.'

Management renamed workers "associates" and declared them to be "our most important asset."

Later in the 1980s, Team Concept carried this notion further: we were all said to be in this competitiveness rat-race together. "We want your brain as well as your muscles," management stroked us. "We want you to work smarter—not harder." We all had to take responsibility for productivity increases, and apply peer pressure if our fellow workers were not pulling their load.

However, the concept of "teamwork" was usually attached to Lean Production, a system more accurately called Management-by-Stress. Lean production included just-in-time delivery, elimination of classifications, and "constant improvement," or constant speed-up. The bible for this phase, a book called *The Machine that Changed the World* from the Massachusetts Institute of Technology, treated unions as either an obstacle or irrelevant.

DECISIONS 'CASCADE DOWN'

None of these 1980s management fads did workers much good. But at least they claimed to believe in the value of employees and their ideas. Management said that their programs were the road to job security. There was even talk - by the

AFL-CIO Embraces Cooperation; Is John L. Turning in His Grave?

It's official. The AFL-CIO Executive Council is in favor of labor-management cooperation. The February Council meeting in Florida approved a document drafted by its Committee on the Evolution of Work—the same body that recommended associate memberships with union credit cards as a way to halt labor's decline.

Apparently backing the Reich Commission's interest in changing the labor laws which restrict company unions, the document says, "The time has come for our government to provide a legal framework and a climate which encourage partnerships between labor and management..." It called on labor and management to "surmount past enmities."

The Department of Labor called the report "great news."

APWU

Burris: 'Not a document for the archives.'

Not everyone agreed. Bill Burrus, vice president of the American Postal Workers Union, had these thoughts:

"You either stand for something or you stand for nothing, and this document indicates we don't stand for much of anything.

"They tried to come up with a compromise between those on the Council who favor these programs and those who don't. We [the APWU] are violently opposed to cooperative programs and don't understand labor's timidity in addressing the question.

"There is absolutely no evidence in history that cooperating with the employer does unions any good... There are just conflicting interests.

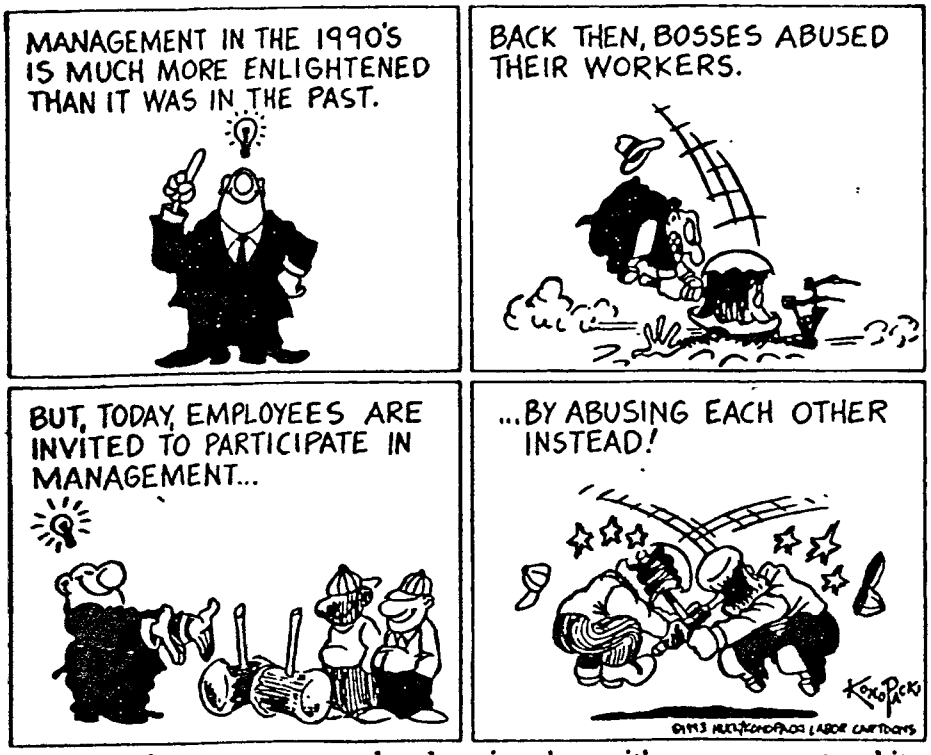
"Once you dissipate the militancy and the cohesiveness of working people, you destroy the primary strength of labor unions... Our strength comes from our members, and these programs are designed explicitly to dissipate that strength.

"Once that's taken away...we certainly have large PACs, we have opportunities to play golf, to have important people call us by our first names. That doesn't redound in any way to our members...

"John L. Lewis and Walter Reuther are turning in their graves. I'm glad they died before they could see this.

"This is not a document that should go into the archives; the bathroom would be more like it."

Management Takes Off the Gloves


MANAGEMENT IN THE 1990'S IS MUCH MORE ENLIGHTENED THAN IT WAS IN THE PAST.
BACK THEN, BOSSES ABUSED THEIR WORKERS.
BUT, TODAY, EMPLOYEES ARE INVITED TO PARTICIPATE IN MANAGEMENT...
...BY ABUSING EACH OTHER INSTEAD!
KOKOPELLI

gurus, not by management—that the programs should include Japanese-style lifetime employment.

But then, in the 1990s, Total Quality Management placed the emphasis on top management setting the course and organizing the workplace so that decisions would "cascade down." The main role for employees was to bring their activities into alignment with the organization's overall goal and eliminate any variation (judgment) they might introduce into the process. Employee ideas to management were welcome, but management had to control all change decisions.

Management viewed TQM as a matter of management method, and therefore tended to installed TQM programs unilaterally. Unions that agreed to cooperate might get a few crumbs.

Looking forward, perhaps unions might have taken consolation in the fact that TQM was an incremental approach; it claimed to take the organization as it was and improve it. Some strains of TQM (notably the late W.E. Deming) also talked about "driving out fear" from the workplace, with the implication that management should offer job security.

UPHEAVAL

Now we have Reengineering and Reinventing. Management is applying these with a vengeance to white-collar and service jobs—areas that were often bypassed when the focus was on lean production.

The *Wall Street Journal* warned last month, "Much of the huge U.S. service sector seems on the verge of an upheaval similar to that which hit farming and manufacturing, where employment plunged for years while production increased steadily."

Since it is hard to measure the direct impact of a work reorganization program on quality or even profitability, the bench mark for reengineering is: how many jobs did you erase?

Take the U.S. Department of Health and Human Services, for example. You might think that this agency's mission should be responding to the crises in medical care, AIDS, homelessness, etc. But the Department's "Streamlining" plan for the next five years offers only the vaguest ideas of how the department will be reorganized or the services it will offer. There is only one specific: reduce the staff by 12%.

We have only to look at the notions of Agile Institutions and Virtual Corporations to see where all of this is leading.

Agile Production is promoted by the Iacocca Institute at Lehigh University. This system, we are told, puts human decisions at the center of the production system, rather than dumb machines. Thus production can respond rapidly to changes in the market, new customer requirements, and business opportunities. The agile corporation is able to shift quickly from one task or process to another.

MAXIMUM AGILITY

To do this the company has to be freed from commitments to par-

(continued on page 10)

What Is Reengineering?

Reengineering is not about "cutting fat or automating existing processes," say the consultants who have popularized this term.

In *Across the Board* magazine, Michael Hammer and James Champy declared, "A common misperception is that [reengineering] is the same as Total Quality Management... TQM is about improving something that is basically okay, and reengineering is about taking something that is irrelevant and starting over."

Hammer and Champy are authors of *Reengineering the Corporation: A Manifesto for Business Revolution.* Their clean-sheet-of-paper approach counsels management not to reform its work processes, but to "obliterate" as many as possible.

Right now, reengineering consultants are pushing certain notions: break down job classifications; one person handles a task from beginning to end; build the organization around generalists; contract out for specialized work.

Reengineering is proceeding apace in hospitals, telecommunications companies, insurance companies, and manufacturing.

An example of reengineering is the concept of "Patient-Focused Care," now being applied in hospitals. All services are located close to the patients, including bedside computer terminals. "Non-value-added work" such as walking, is curtailed. Workers are reorganized into "care teams," with the aim of doing away with specialists and creating the "generic health care worker."

Whether in hospitals or factories, the emphasis is on top-down leadership, say the reengineering consultants. They stress that top management will have to be strong and powerful to break the resistance that is sure to come from middle managers and workers afraid for their jobs. Their imagery is macho and violent:

"The way that you have to deal with this resistance is a combination of relentless communication, support incentives, and a bloody ax.

"We are going on a journey. On this journey, we will carry the wounded and shoot the stragglers.

"You either get on the train or we'll run over you with the train.

"Nuke it."

[All quotes from Hammer and Champy, *Across the Board,* June 1993. For more information on Patient-Focused Care, see the Resources column on page 13.]

From 'QWL' to 'Reengineering'—cont'd

(continued from page 9)

ticular factories, processes, or machines, and therefore freed of commitment to the workers whose jobs depend on these expendable elements of profit making.

The Virtual Corporation provides maximum agility. It keeps only that which is central to the corporation: its profit center. For continuity, the corporation maintains its top management, the key idea people, the organizers, and the brokers. As much as possible everything else—manufacturing, service, clerical work, communications work—is sourced out. Every project is temporary.

Robert Reich, now Secretary of Labor, explained the concept in his 1991 book, *The Work of Nations:*

> In the high value enterprise...all that really counts is rapid problem-identifying and problem-solving, the marriage of technical insight with marketing know-how, blessed by strategic and financial acumen. Everything else—all of the more standardized pieces—can be obtained as needed.
>
> Office space, factories, and warehouses can be rented; standard equipment can be leased; standard components can be bought wholesale from cheap producers (many of them overseas); secretaries, routine data processors, bookkeepers, and routine production workers can be hired temporarily.
>
> In fact, relatively few people actually work for the high-value enterprise in the traditional sense of having steady jobs with fixed salaries.

The model is a Hollywood production. The producers raise the money, hire the writers, actors, and technicians. When the movie is in the can, everyone returns to the marketplace, waiting to be called for the next project.

Another image that comes to mind is the day labor markets on the street corners of Los Angeles, where contractors bring their pick-up trucks and Mexican immigrants line up to compete for a day's work.

DOWN THE FOOD CHAIN

Frightening? Yes. On the agenda? In most cases, not in full form. Big manufacturing can't achieve the full virtual model, but companies can aim to reduce their built-in capability as much as possible to "fast assembly" operations. At the same time the labor content of assembly is reduced by new modular processes and "design for manufacturing."

The same logic applies at each level of the economy. Second-tier suppliers find that they too must be more agile to meet the needs of their customers, so they look to minimizing their own commitment to buildings, machinery and workers. The pressures move down the food chain.

Reengineering and agile institutions mean that long-term commitments to employees ("our most important asset") and "lifetime jobs" hit the trash bin, along with decent jobs and strong unions. Contractual and moral commitments are collapsing around the world—in Japan and Europe as well as in North America.

Who benefits from this increased speed and efficiency? Clearly the corporations do. In many cases, the gains show up only in the profit column and never get translated into gains for the customer. And as workers we have lost a lot already, with no end in sight.

Efficiency, or the idea of redesigning jobs or products or processes so that they're easily done, is not a bad concept. In fact it is vital to recognize that the system is broke and needs fixing. The problem is, what are the assumptions that are the basis of reengineering?

Management's assumptions are:

- that the primary goal is to obliterate jobs;
- that management has no responsibility;
- that the marketplace, or society, or your family, or someone else will absorb the consequences.

The union starting point has to be the right to work at a decent job. Doing our work in less time would be fine—if it means a shorter work week and not a smaller workforce.

IT ALL ADDS UP

The nub of the problem is that all the work reorganization programs add up. Each company or government agency, each pursuing its own competitive ends—together they add up to a prescription for the society as a whole.

Their underlying assumption is that there are too many good jobs. The solution is to reduce the number of people working and to extract more work for less cost from those who remain. This assumption continues our march to a have and have-not society, where a few live very well and an increasing portion is considered disposable.

That is the management agenda for the 1990s. Now more than ever the labor movement must put forward its own vision. The problem with our economy is not too many decent jobs but too few. The solution is to increase the number of people working at decent wages and hours, and to see that what they do is of value to society rather than a waste.

What makes the management scenario even more disastrous is that so many unions have embraced management's agenda as their own, in the futile hope that they can salvage a piece of the action. The worse things get, the more some union leaders lay down our remaining weapons in exchange for the promise of "partnership."

In 1992 AT&T and the Communications Workers signed a Workplace of the Future agreement to, the union says, "give CWA a voice in the redesign of our jobs." Union members are on reengineering teams, contributing their knowledge to the job-cutting process. At the same time, AT&T is transferring work to its anti-union subsidiary, NCR. Last month AT&T announced it was cutting 15,000 jobs, without even so much as a prior discussion with its union partner (to the "shock and disgust" of the CWA vice president in charge of AT&T).

UNION LABEL PINK SLIPS

Bill Clinton has made cutting government jobs both a priority for his administration and the model for private enterprise and state and local government to follow. Despite this, lured by the possibility of agency shop, the federal employee unions have announced a new management/labor "partnership."

A video distributed by the American Federation of Government Employees gives us one example of what this will mean in practice.

AFGE President John Sturdivant cites Local 2302 in Kentucky as the example of "successful experiences" with partnership. Instead of management doing the cuts, the union did them. In fact, the union did so well, says Local 2302 President Butch Henry, that "we reduced our payroll budget 16% in 14 months—4% more [than required over five years in the Clinton plan]."

The Labor Department's point man for labor-management cooperation, Chuck Richards, endorsed this outlook at a union conference in Iowa March 4. "Two hundred fifty thousand [jobs] will be gone from the government by attrition," Richards said, "as a result of an agreement by [Vice President] Gore and Sturdivant through the National Partnership Council." Although the AFGE members present called this, "putting the AFGE label on your pink slip," Richards said it was positive that the agreement was a joint one.

Actually, President Clinton had announced the cuts earlier in his State of the Union address.

(continued on page 11)

Community-Labor Coalition Fights Grocery Warehouse Closing in Indiana

by Rodney Ward

Supervalu, the giant wholesale food distributor, shocked the 372 employees at its profitable Bloomington, Indiana warehouse subsidiary, Wetterau, by announcing January 10 that the warehouse would be closed. The warehouse has been in the Bloomington community in one incarnation or another since the Depression. Its loss removes one percent of the income from the local economy.

Within days of the closing announcement, local politicians had given up hope of keeping Wetterau open. But by the end of the first week, local activists were putting together a coalition to challenge the shutdown.

Meetings of Teamsters from Local 135, which represents the Wetterau workers, and community and labor activists yielded the Ad-Hoc Coalition for Industrial Retention and the rebirth of the dormant Bloomington Labor Solidarity Network.

Activists felt that if they could pressure grocery stores to drop Supervalu as a supplier, the economic pressure might induce Supervalu to reconsider its decision.

Efforts have included rallies, a letter writing campaign, and a town meeting. These have generated positive press coverage.

No formal boycott has been called, but tens of thousands of people have squeezed Supervalu-supplied stores by shopping their consciences, taking their business elsewhere. More than 28% of Supervalu stores have switched to other suppliers due to this informal pressure.

More than 28% of Supervalu stores have switched to other suppliers due to shoppers' pressure.

A formal boycott is being discussed, and other pressures are being focussed on stores slow to switch.

Together, the Coalition, the Labor Solidarity Network, and Local 135 asked the Midwest Center for Labor Research to produce a "social impact analysis" of the economic shock waves the closing would create.

This analysis was unveiled at a standing-room-only town meeting February 24 in the Bloomington City Council chambers. It projected an $11 million loss in tax resources, and a ripple effect costing 203 jobs beyond the initial 372 lost at the warehouse.

One speaker declared, "An isolated and remote group of Supervalu board members in Minneapolis has no right to destroy people's dreams and livelihoods." An invited Supervalu representative failed to show.

Most of the warehouse workers were laid off March 11th, but activists say Supervalu is feeling the pressure.

Regardless of what happens, the campaign has brought unions and community groups closer together. It has exposed elitist attitudes among local politicians who fear grassroots involvement in economic develop-

(continued on page 12)

From 'QWL' to 'Reengineering'—cont'd

(continued from page 10)

Despite the gloomy prognosis, it's not the end of the world for the union just because your CEO announces it's reengineering time:

- Never underestimate the incompetence of management in executing its plans.
- Often management is caught between conflicting pressures, from both above and below. Smart unions look for the cracks, and for unanticipated events.

The big danger to the labor movement is that union after union—each acting alone and trying to make the best of its own situation—will sap labor's strength by endorsing the doctrine that the workforce must be reduced.

The multinational corporations are powerful, but they are not all-powerful. The companies' programs to expand their profits also make them potentially more vulnerable.

- A tight just-in-time system is very easily disrupted by concerted action—by even a relatively small number of employees, or contractors.
- Sourcing-out can stimulate solidarity actions between newly-linked workplaces.

The future won't be easy. Unions will have to take all kinds of tactical turns—including retreats and sidestepping.

But only if we stop the wishful thinking about "win-win" solutions can we rebuild our only source of power—a committed union membership. □

[A longer version of this article will be included in a new book Labor Notes is preparing on unions and work reorganization programs. The book will be published later this year.]

Klan Activity Spurs Saturn Boycott—cont'd

(continued from page 16)

"We are supposed to hire workers on the team by coming to consensus," one worker said. "Our consensus and process is thrown out of the window because white males dominate." Workers report being forced to accept white males on their teams who were not eligible to be hired.

"We have applications of union members who are people of color on the internal hire list," a worker said. "If a job is open, that position should be filled from those applications, but successful pressure is put on you to hire externals by management. Workers who are from outside of the plant are hired and they pass over the internal hiring procedures."

Workers detail how allowances are made for white working couples who work different shifts, but, says one, "this same consideration is not shown to workers of color."

CHEMISTRY

Mack says that many problems that workers label as racism are often only a matter of "chemistry." New hires get 40 hours of initial training which is supposed to teach them how to work with each other. But Saturn officials could not say how much of the 40 hours is devoted to anti-racist training.

The problem goes way beyond chemistry, say many African Americans. Over 100 of them have formed the Committee for Equal Justice. The Committee combats what it says is the unequal treatment of African American employees, including verbal abuse and lack of promotions. "We just want to be treated equally," Cleophus Davis, president of the Committee for Equal Justice, told *The Tennessean*.

After reports of problems at Saturn surfaced in national newspapers, workers said the entire plant was closed for a product security meeting. Workers say they were shown videos detailing what happens to workers who leak plant secrets. The point, one worker said, was to discourage them from talking to the press.

The videos featured workers who were jailed for giving out company secrets.

The message was clear: it's safer not to say anything to anyone. □

THE DEBATE OVER THE BAN ON EMPLOYER DOMINATED LABOR ORGANIZATIONS: WHAT IS THE EVIDENCE?

James R. Rundle

Introduction

The debate over the National Labor Relations Act's ban on company unionism has taken center stage in the deliberations of the Commission on the Future of Worker-Management Relations, yet the debate has been informed by little factual evidence.

Section 8(a)(2) of the National Labor Relations Act makes it an unfair labor practice for an employer to "dominate or interfere with the formation or administration of any labor organization..." The definition of a "labor organization" (§2(5)) is very broad: "any organization of any kind ... which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes..." This means that if an employee committee deals with issues that a union would have a right to bargain over, and if the committee is dominated by the employer, then it is illegal, and the National Labor Relations Board (NLRB) can order the committee to be disestablished.

The focus of most employee involvement programs, including teams, quality circles, total quality programs, and the like, is ostensibly on quality, efficiency, and customer satisfaction.

James R. Rundle is a labor educator at Cornell University. His paper will be published soon in the ILR PRESS publication, "Restoring The Promise of American Labor Law."

Mr. Rundle has given his permission for distribution of his work at Meeting the Challenge II.

Although these issues might not appear to be bargainable, many argue that bargainable issues are inevitably implicated in such programs (see *Electromation, Inc.*, 309 NLRB No.163). This would make the programs vulnerable to legal challenge, and several proposals have been advanced to modify §8(a)(2), or §2(5), in order to protect them from such challenges.

Who favors modifying the ban?

These proposals arise from astonishingly diverse sources. Business leaders and Republican politicians say that §8(a)(2) must be changed if American business is to use employee involvement to compete in the world market.[1] In a variant of this argument, some members of the Commission on the Future of Worker-Management Relations (hereafter, "the Commission") have asserted that employee involvement is necessary for the creation of high skill/high wage jobs. But they also point to a "representation gap" in the American workplace owing to the decline of organized labor, arguing that §8(a)(2) needs modification if workers are to explore new channels for exercising "voice." Most of those advocating modification of §8(a)(2), however, also accept the employer's argument: that §8(a)(2) stands in the way of employee involvement (see Freeman and Rogers (1993), Gould (1993), and Weiler (1990:218). Commission Chair John Dunlop views legal constraints on employee involvement as the first issue the Commission should address.

Altering §8(a)(2) is the only issue that employers have advanced in the labor law reform debate, apart from their

resistance to labor's proposals. It therefore stands as the only bargaining chip that labor might exchange for something else. The sole Commission member drawn from the labor movement, former UAW President Douglas Fraser, openly suggests this kind of trade.

The purpose of §8(a)(2)

There are reasons to worry about this developing bandwagon. The independence of workers' organizations is central to the purpose of the National Labor Relations Act (1935). Section 7 gives workers a right to "self-organization" and "to bargain collectively through representatives of their own choosing" (emphasis added). Section 8(a)(2) was intended to safeguard this independence, and therefore it concerns the heart of the Act.

The need for §8(a)(2) became clear in attempts to enforce §7(a) of the earlier National Industrial Recovery Act (1933). The N.I.R.A. established a right to organize and bargain collectively, but it did not distinguish company unions from independent unions. The result was that employers organized "Employee Representation Plans" (ERPs) much faster than workers organized unions, prompting Senator Wagner to state, "...the very first step toward genuine collective bargaining is the abolition of the employer dominated union..."[2] In fact, the new National Labor Relations Board did root out many ERPs in its early years (Hutson 1992).

Furthermore, precedents under §8(a)(2) give unions important bargaining rights when employers propose these plans, and empower unions to reject plans that they do not believe to be legitimate.

Is there evidence that supports altering §8(a)(2)?

Altering a section of the National Labor Relations Act that was conceived as central to the Act's purpose should not be contemplated on the basis of unexamined assumptions that "good-faith" employee committees are threatened by legal action. Nor should it be based on an unproven belief that most existing committees are fundamentally different from ERPs, or that something like ERPs would never again stand in the way of organizing if §8(a)(2) were weakened. That is particularly true when the proposed alteration is the only one that employer organizations favor, and for which they have campaigned in a vigorous and, as we shall see, highly misleading manner.

One missing key is the record of §8(a)(2) in practice. Has the application of this section of law actually thwarted employee committees that empower workers and improve competitiveness through group processes? Since the belief that it does thwart these efforts is so pervasive and influential, it is remarkable that no one has made a systematic effort to find out if it is actually true. Instead of information, we have heard mostly a fog of confusion created around a recent case, *Electromation, Inc.* (309 NLRB No.163).

"Industrial Age rules bog down modern economy"

In the Electromation case, employer organizations such as the National Association of Manufacturers, the Labor Policy Association, the Chamber of Commerce, and others waged what Professor Charles Morris (1992) suggested was a deliberate

"campaign of disinformation."

The Labor Policy Association's brief claimed that the decision of the Administrative Law Judge (later upheld by the NLRB) allows for "only two options: traditional collective bargaining, based on the threat of economic warfare, or no involvement in work improvement efforts whatsoever," and asked whether the Act would recognize "emerging workplace realities and maturing labor-management relationships, or will its gaze be frozen forever upon the adversarial labor relations landscape of 1935?" The Chamber of Commerce's brief warned, "The Board must find a way to accommodate the new organizational concepts in American industry, under which an employer and groups of employees work cooperatively to improve quality, productivity, and overall performance in order to be competitive at home and abroad." Eleven congress members filed a brief declaring that §8(a)(2) "sounds a potential death knell for what could be the key to economic rebirth" (Zurofsky 1992). Newspaper and magazine accounts echoed these apocalyptic warnings: "Firms fear NLRB as hurdle in global race," "Putting a damper on that old team spirit," "Setback for Labor-Management Teamwork Efforts," "A wedge in the workplace," "Remove the cloud over teamwork," "Quality circle busters," "Industrial Age rules bog down modern economy."3

The real meaning of *Electromation*

This clamor was created without the slightest basis in the facts of the case. Electromation's committees dealt only with mundane terms and conditions of employment. Neither the employer

nor the numerous *amici* filing briefs in the case ever argued that the committees were teams or quality circles or were formed with any intention of improving efficiency or product quality.

What really is remarkable about *Electromation* is that the use of labor law by the employees and the Teamsters union was a stunning success. The Teamsters filed a §8(a)(2) charge after losing a certification election. A judge found that the employer had established and dominated committees that were functioning as labor organizations, and ordered them to be disestablished. Then, through a Stipulated Election Agreement arising out of efforts to settle the case, a second election was held which the union won. Thus as a direct consequence of acting on §8(a)(2), the employees gained a labor organization under their own control, and used it to win enforceable rights.

Advocates of altering §8(a)(2) would greatly strengthen their position if they cited cases of thriving employee involvement programs, established in good faith and demonstrably beneficial to both company and employees, that were struck down by the NLRB. Indeed if they cannot do this, then they are asking for a change in a major, long-standing statute without a single test case to show why the change is needed. That such a proposal has reached the top of the Commission's agenda, at a time when unions are reeling from discriminatory firings, refusals to bargain, and hiring of permanent replacements, calls for prompt scrutiny.

It is my hypothesis that in actual practice, §8(a)(2) has had virtually no impact on good-faith experimentation with employee involvement. This hypothesis is tested through a review of

§8(a)(2) disestablishment cases over the past twenty-two years.

Methodology

How would we know if the Board had disestablished committees of the type employers say they need in order to be competitive, or that had "empowered" employees? There are thousands of employee involvement committees and hundreds of different plans. Are they all good and necessary? What criteria could we use to decide?

Employers simply say they want to make "good-faith" efforts to involve employees, and point to their need to be competitive through improved quality, etc. Some add that committees empower employees by increasing responsibility and decision-making authority. Although these criteria are vague, they proved to be easy to test in the existing cases.

To find the cases in which the Board disestablished employee committees, I did a Lexis search of NLRB cases covering from 1972 to 1993 using "8(a)2" and "disestablish!" "disband!" or "dismantle!" as key words (the exclamation mark is a truncation symbol). This 22 year period is the full range covered by Lexis. During this period employee involvement grew slowly at first, and more rapidly later (Ichniowski, Delaney, and Lewin, 1989) despite the existence of §8(a)(2). If §8(a)(2) had limited this development we would expect a rise in the number of disestablishment cases over time.

There is no certainty that this search yielded every disestablishment case during that period, but a check of several

law review articles and briefs revealed no additional cases.

The "good faith" criterion

The disestablishment cases were then checked for: 1) other unfair labor practices (ULPs), 2) whether the charge arose out of a union organizing campaign, and if it did, whether the committee was established during the campaign, or was revitalized at the time of the campaign, or engaged in new activity that might make the committee a more attractive alternative to unionism, 3) whether a certified union was in existence, and if one was, whether the employer had refused to bargain with it.

Anti-union motivation need not be shown in order to establish domination of a labor organization, so the Board has not always determined whether a committee's formation or actions had the purpose of thwarting union activity. Also, other ULPs do not necessarily have any connection to the §8(a)(2) violation. For our purposes, however, if "good faith" efforts at employee involvement are being thwarted by Board decisions, we would expect to find cases in which no such indications of bad faith exist.

The "quality" and "empowerment" criteria

The decisions of the Administrative Law Judges (ALJ), attached to Board decisions, are a rich source of information about the cases. The ALJ scrutinizes the employers' arguments, and in particular, the issues which the committees discuss.

Using this resource, the cases were checked for evidence that the committees were created primarily to improve the quality of

product or service, or to improve efficiency, or to introduce new technology or new work practices like Total Quality Management, or to expand the scope of employee decision-making. If Board decisions hampered experimentation in such activities, there should be evidence in the ALJ's record. We would expect to find that some committees mostly engaged in those activities, but were struck down because they included some bargainable issues in their deliberations. We would expect some employers to argue that their committee's accomplishments were critical to the success of the firm, and that the committee had to occasionally discuss bargainable issues in order to be fully effective. And if the committees empower employees, we would expect to find in some cases that employees had gained decision-making authority, not just the opportunity to make suggestions. Certainly, if any of these were arguably the case, the employer would make the argument, and the ALJ would discuss its merits.

Results

Have disestablishments increased over time?

The Lexis search yielded 101 citations, of which 58 proved to be cases in which the Board had disestablished one or more employee committees (Table 1). In 19 citations, the Board declined to disestablish. The other 24 citations proved irrelevant. If we divide the search period into two eleven-year parts, 1972-1982, and 1983-1993, we find that the number of disestablishments has decreased markedly in recent years, not

increased as we would expect if §8(a)(2) were limiting employee involvement (Table 2). In the last eleven years, the Board only disestablished in 17 cases, or less than two per year.

Have "good-faith" efforts been struck down?

During the entire 22 year period, the Board ordered disestablishment in only five cases in which they found no other ULPs (Table 2). Typical of the ULPs were interrogations, threats to shut down and layoff, surveillance, discriminatory discharge, soliciting grievances, promises, and granting improvements. In one of those cases, charges of discriminatory discharge were settled by reinstatement (*North American Van*), and in two others the committee was formed during an organizing campaign (Table 1).

That leaves two cases in 22 years in which there were no other ULPs found, and the committee disestablished had not been established in the course of a union organizing campaign.

Have quality or empowerment efforts been thwarted?

The two cases remaining are *Electromation*, in which the committees had nothing to do with quality, productivity, or empowerment, and *Alta Bates*, a 1976 case. In that case, a union was present, yet every issue taken up by the committee was an ordinary grievance of the type unions handle every day (with the possible exception of a request for a suggestion box). In every other case where a union was present and a committee was disestablished, the Board found a refusal to bargain.

Not one of the 58 cases contained any evidence that the

committee in question had increased productivity, quality, or the decision-making authority of the employees.

All of this leaves us with a simple, stark conclusion: There is absolutely no evidence that the NLRB has ever, in the past 22 years, disestablished a committee of the type employers say they must have to be competitive.

Cases that do not reach the NLRB

For the last three years, Lexis has included ALJ decisions that have not reached the NLRB. Among these were five cases in which the ALJ ordered disestablishment of a committee. None deviated from the pattern of NLRB cases described above.

Discussion

Employee committees as alternatives to unionism?

What of the arguments that employee committees could be a new form of representation that could fill the gap left by union decline? Freeman and Rogers (1993), arguing for modifying the ban on company unionism, state that current labor law presents workers with an "'all or nothing' choice in representation--traditional labor unions or none at all." But that is not true.

First, workers have the right "to form, join, or assist labor organizations" (§7), and as we've seen, a non-union committee can be a "labor organization." Workers also have a right under §7 "to engage in other concerted activity for mutual aid and protection." So workers can form organizations and act concertedly to attempt

to persuade or pressure an employer even without unionizing. Clyde Summers (1990) advocates doing exactly that.

Second, as this study shows, there is little chance that the Board will disestablish more than a handful of the thousands of existing employee committees. If opportunities to experiment with alternative forms of "voice" are wanted, then they exist already. An overlooked tool is the Labor-Management Reporting and Disclosure Act (LMRDA). Sections 3(i) and (j) define the term "labor organization" similarly to §2(5) of the NLRA. This means that people who are represented by employee committees that are "labor organizations" have a right of access to meetings, to address the committee without fear of reprisal, to elect the heads directly, and to be informed of those rights, and the committee must disclose its finances.

At Polaroid Corporation, a committee was challenged as undemocratic under the LMRDA. Polaroid's CEO abolished the committee rather than allow elections for its chair and vice chair (Daily Labor Reports, 6-23-92; *Scivally vs. Graney*, 143 LRRM 3043). The potential for exercising LMRDA rights has not been tapped; unions could use them to educate workers about democracy in the workplace.

A more serious problem with the promotion of non-union committees is that they are assumed to have value as an alternative to "traditional" unionism. The value of unionism has been painstakingly documented. Unions are known to improve wages and benefits, reduce turnover, increase equality of wages, protect the jobs and income of older workers (Freeman and Medoff, 1984),

and to make OSHA, useless in non-union firms, into an important tool for safety (Weil, 1991). They make substantial gains even in first contracts (Bronfenbrenner, 1993:471). In contrast, the value of employee committees is simply taken on faith.

Should labor trade §8(a)(2) for something else?

Would some degree of change in §8(a)(2) be worth trading for something that would make it easier to organize?

First of all, what would employers give up to get such a change? Probably not much, because as we have seen, they are not actually harmed by §8(a)(2). But more importantly, the employers used the employee involvement issue phenomenally well to derail the Commission and just about everyone else from the issues that matter to labor and working people. Employers have accomplished this without a single argument they could back up with facts. They are very powerful in Congress. Against that opposition, if labor engages in horse trading, what will come of it? Consider this scenario: by the time such a trade gets through Congress, §8(a)(2) will be dead, and the labor movement will wind up with a pale ghost of the new rights they thought they were getting.

Furthermore, any change would present real hazards, no matter how carefully drafted. The recent *DuPont* decision (311 NLRB No.88), along with earlier cases, provides valuable precedent that should not be lightly cast into doubt. No one can predict what the altering of §8(a)(2) or 2(5) would be used to justify in years to come. Who would have guessed, when the Taft-Hartley Act (1947) was drafted, that forty-five years later a Board member would

argue that in adding new language to the first section, Congress must have intended a change in §8(a)(2), even though Congress specifically rejected such a change? Yet that is what member John Raudabaugh did in his concurrence in *Electromation*.

What does labor stand to lose?

The *DuPont* decision affirmed that unions can insist on bargaining over employee involvement plans that deal with bargainable issues and that employers cannot implement such plans without the union's agreement. This is not just a right to bargain; it is veto power. It may even apply to plans that deal only with non-mandatory subjects.[4]

Whether unions should participate in employee involvement is the subject of rich debate within the labor movement. But it would be a mistake to inject that controversy into the debate over labor law reform. Those who reject employee involvement obviously do not want to lose their legal basis for challenging it, but it should be just as obvious that unions engaged in employee involvement must preserve their right to bargain over the plans and to reject anything that they believe is not legitimate.

Could weakening §8(a)(2) hurt organizing? The small number of disestablishment cases, as well as their decline during the 1980's, contrasts sharply with the rise in §8(a)(3) discharges (Freeman and Medoff 1984). This suggests that employee committees are not often the employers' weapon of choice in organizing drives. But two independent studies show that union win rates are exceptionally low where employee committees exist (Bronfenbrenner

1993:313; AFL-CIO 1984:6). This fact will not be lost on employers if unions begin to make organizing gains.[5]

Section 8(a)(2) is a 58 year-old law forbidding a practice that has historically proven to be a potent anti-union device. It cannot prevent employers from using committees during organizing campaigns, but it places important limits on them. If it is weakened, a future generation of organizers may scorn us for it.

Finally, the principle of unionism independent of employers represents a vital human need in our society, no matter how dire labor's decline may be. There is dignity in creating one's own organization, in choosing one's own representatives, and in recognizing and acting on the common interests and vulnerabilities of workers dependent upon property owners for a livelihood. There is no substitute. Weakening §8(a)(2) would be a portentous event, a death knell of an entirely different sort from the one predicted by the eleven congress members who lobbied the NLRB in *Elecromation*.

What will it take to achieve positive reform?

The call for modifying §8(a)(2) is based on a bold misrepresentation of its impact in the workplace by employers, combined with uncritical acceptance of the employers' arguments and other assumptions by many others. It has reached a crescendo that has nearly drowned out the real needs of working people.

In 1988, the Massachussetts building trades faced a referendum campaign against the prevailing wage law. The campaign was organized by the Associated Builders and Contractors, joined

by a tax revolt group. The trades defeated it by creating alliances with other unions, civil rights organizations, religious organizations, and other groups, and by convincing voters that the law was in the public interest (Erlich, 1990). If that is what it took to save an existing law, what will it take to achieve positive reform? Even granting that labor law is not made by referendum, can it really be accomplished without organizing public support well beyond the labor movement itself?

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Notes

1. See for example, Perl (1993); remarks of Rep. Steven Gunderson (R-Wis.), in the Daily Labor Reports, No. 245 p. A-16, 1992; remarks of Jeffery C. McGuiness, Labor Policy Association, in the New York Times, Dec. 18, 1992; *amicus curiae* briefs to the NLRB in *Electromation* for the Manufacturers' Alliance for Productivity and Innovation, for the Chamber of Commerce of the United States of America, and for the Coalition of Management for Positive Employment, Training and Education, the National Association of Manufacturers, and the American Iron and Steel Institute.
2. Legislative History of the NLRA, 1935, at 15 and 21.
3. From, respectively, the Memphis Commercial Appeal, 5/31/92, Business Week 5/4/92, The New York Times, 12/18/92, Houston

Chronicle, 5/22/92, Chicago Tribune, 7/12/93, The Wall Street Journal, 6/9/93, Denver Rocky Mountain News, 6/27/93.

4. The April 15, 1993 memorandum of NLRB General Counsel Jerry M. Hunter leaves open this possibility and directs the regional offices to submit such cases for advise. Daily Labor Reports, 4/26/93, No.78, p.G-9.

5. A recent article entitled "Scary new union activism...how to fight it and win" urges, "Despite some discouraging rulings by the (NLRB)"..."we strongly recommend that all companies find ways to set up more employee involvement opportunities" as a way of countering new organizing tactics. The activities it advocates, however, are clearly limited in important ways by §8(a)(2). (Cabot, 1993).

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Table 1: Employee Committees Disestablished By the NLRB, 1972 - 1993: Additional NLRA Violations Concurrent With The Disestablishment Order

Abbreviated Case Name	Board[a] number	Year 19( )	Orgzg[b] camp'n	U in[c] exist.	Other sects.[d] viol'd--8(a)( )	Nature of violations, and other circumstances
Du Pont	311/88	'93		Y	1,5	refusal to allow union communications, soliciting grievs., refusal to barg., unilat. change
Ryder	311/81	'93	Y		1	threats to withold raises and to layoff
Salt Lake	310/149	'93	Y	Y	1,3,5	interrogations, threats, promises, discharges; refusal to bargain, unilateral change
Yukon	310/42	'93	Y	Y	1,3,5	interrogations, promises, surveillance, threats, discharge; unilateral change
Research Fed.	310/13	'93	Y	Y	1,5	threats, soliciting grievances, promises, granting benefits, refusal to bargain, unilateral changes
Electromation	309/163	'92	Y[e]		none	organizing drive shortly after committees established; union lost, but then won Bd.-ordered election after committees were disestablished
F.M Transport	306/156	'92	Y		1,3	discharge, questioning, promises, threats
Camvac	288/92	'88	Y	Y	1,5	interrogations, promises, threats, granting benefits, unilateral change
Airstream	288/28[f]	'88	Y		1	threats, granting improvements, discriminatory prohibition of literature distribution
North Am. Van	288/11	'88	Y		none	union supporter fired, but reinstated in settlement of §8(a)(3) charge; refused to allow on committee
UARCO	286/7	'87	Y		1,3	interrogs., threats, soliciting grievs., discharge
Ona Corp.	285/77	'87		Y	1	soliciting grievances, promises; barg. order in previous case, then refusal to bargain in another
Memphis Truck	284/99	'87		Y	3,4,5	refusal to sign cba, violating contract, refusal to bargain, unilateral change, refused to rehire
Superior Cont.	276/55	'85	Y		1,3	surveillance, threats, expressing the futility of organizing, discharge
Jet Spray	271/32	'84	Y		1	overly broad rules, threats, interrogations, urging employees to abandon union drive
Predicasts	270/170	'84	Y[e]		1	promises, interfered with distrib. of union mat'ls
Lawson Co.	267/75[g]	'83	Y		1, 3	granting unprecedented benefits, threats, asking employees to withdraw authoriz. cards and deal directly, saying they'd never deal with a union

Abbreviated Case Name	Board[a] number	Year 19( )	Orgzg[b] camp'n	U in[c] exist.	Other sects.[d] viol'd--8(a)( )	Nature of violations, and other circumstances
Comet	261/188	'82		Y	1,3,5	discharge, refusal to bargain
Homemaker	261/50[f]	'82		(Y)[h]	1	impression of surveillance, interrogation
Marhoefer	258/71	'81	Y	Y	1,5	soliciting complaints, promises, threats
K & E Bus	255/137	'81	Y		1,3,4	threats, interrogation, promises, granting improvements, discharge, layoffs, discriminatory refusal to hire or rehire
Walker Die	255/34	'81		Y	1,3,5	threats, surveillance, removing picket signs, discharge, refusal to reinstate, advising employees to resign, unilateral changes
Classic Industr.	254/149[g]	'81	Y		1	threats to subcontract or close down if u. won
Streamway	249/54[f]	'80	Y		1	interrogating about union views
Wisconsin Beef	249/34	'80	Y		1,3	interrogs., threats, lay off due to union activity
Amer Feather	248/147	'80	Y	Y	1,3,5	refusal to recognize union and bargain, assuring striker replacements that strikers would never be reemployed, failing to place strikers on hiring list, granting wage increase, withholding COLA
St. Vincent's	244/20	'79	Y		1	threats, promises, surveillance, interrogation
G.Q Security	242/84	'79	Y		1,3	decert. election, IBT intervened; threats, discharge solic. and remedying grievs. through committee
Worldwide	242/40	'79	Y	Y	1,5	campaigning for competing labor organization, announcing negotiations for benefits, refusing to recognize union and bargain, interrogs., threats
Stephens Inst.	241/71	'79	Y		1,3	interrogation, threats, bribing employees to abandon union activity, soliciting employees to observe a union meeting, discharge
Fry Foods	241/42	'79	Y[e]	Y	1,3,4,5	assaults, 33 discharges, interrogations, threats, surveillance, harder working conditions, refusal to bargain, unilateral change
Kurz-Kasch	239/107	'78	Y		1	falsifying hiring dates, interrogations, threats
Mattiace	239/4	'78	Y		1,3	discharges, interrogations, threats, promises, surveillance, polling
Morbark	237/105	'78	Y		none	formed and bargained w/ committee during drive
Liberty	236/201	'78	Y		1,3	impression of surveillance, threats, interrogs., transfers, layoffs, and discharge of u. supporters
Ace Mfg	235/113	'78	Y		1	interrogations, promises, surveillance

Abbreviated Case Name	Board[a] number	Year 19( )	Orgzg[b] camp'n	U in[c] exist.	Other sects.[d] viol'd--8(a)( )	Nature of violations, and other circumstances
Northeastern U.	235/122[f]	'78			1	denied '9 to 5' supporters access and refused to deal with them, but bargained with committee
Metrop. Alloys	233/145[g]	'77	Y		none	created and dominated committee and claimed it would be "just like a union"; presented a "collective bargaining agreement" to employees
Kux Mfg.	233/50	'77	Y		1	interrogations, threats, coercing employees to designate committee as their bargaining agent, polling, granting benefits
Federal Alarm	230/78	'77	Y	Y	1,3,5	interrogs., threats, refusal to bargain w/union, recognizing and bargaining w/committee
Interstate Engin.	230/3	'77	Y		1	interrogation, impression of surveillance, threats of closure and discharge, promises
Mid-Continent	228/98	'77		Y	1,5	refusal to bargain, polling, telling employees union could be voted out by a poll and they could bargain through committees
Internat'l Signal	226/97	'76	Y[e]		1,3	discharge, discrim. enforcement of no solic. rule
Alta Bates	226/65	'76		Y	none	found "dealing with" mandatory subjects, but not bargaining; no evidence of anti-union intent
Freemont Mfg	224/79	'76	Y		1,3	discharge, interrogation, surveillance,
Surface Industr.	224/35	'76	Y	Y	1,5	interrogations, threats, surveillance, shutdown, refusal to bargain, unilateral changes
M-W Education	223/67	'76	Y		1	interrogations, threats, raises
STR	221/103	'75	Y		1,3	threats, suspensions, interrogations
Contract Knitter	220/30	'75	Y		1,3	threats surveillance, economic reprisals
RPI	219/85	'75	Y[e]		1	interrogations, threats, promises
Rupp Industries	217/65	'75	Y		1	threats, interrogation, pay raise
Hertzka & Kn.	206/32[f]	'73	Y		1	threats of closing, laying off, and blacklisting
Lowen	203/86	'73	Y		1	threats; committee establ. 2 mos. after union lost
Versatube	203/87	'73	Y		1	promises, threats to close, chair of committee solicited grievances in presence of foremen.
Money Olds	201/22	'73	Y		1	granting rate increases
Gibbons	199/88	'72	Y		3	discharges, refusal to reinstate
Solmica	199/41	'72	Y	Y	1,5	interrogations, promises, granting of benefits, refusing to bargain

Abbreviated Case Name	Board[a] number	Year 19( )	Orgzg[b] camp'n	U in[c] exist.	Other sects.[d] viol'd--8(a)( )	Nature of violations, and other circumstances
Goulds Pumps	196/118	'72	Y		1	warnings, interrogations, telling employees they didn't need to comply with Board subpoena

a. For example, 311/88 means 311 NLRB No. 88.

b. "Organizing campaign" means that the §8(a)(2) charge was the result of an organizing campaign. Except as noted (see 'e'), the committee was formed or changed its activity in apparent response to the campaign.

c. "Union in existence" means a union co-existed with the committee. Where a union organizing campaign is also indicated, it means a union won an election, or a bargaining order was issued, during the period under investigation.

d. "Other sections violated" - the number listed is the 8(a) violation found in addition to the §8(a)(2) violation. A '1' (meaning a §8(a)(1) violation) is indicated only if cause was found other than the §8(a)(2) violation itself. So if the §8(a)(1) violation is just "interferance..." resulting from §8(a)(2) domination of a committee, then a '1' is not listed.

e. The committee was in existence before the organizing campaign, and there was no evidence that it changed its activity in order to undermine the campaign.

f. U.S. Court of Appeals denied enforcement. No Court of Appeals ordered disestablishment when the Board did not.

g. U.S. Court of Appeals enforced.

h. The union itself was dominated, and actually amounted to no more than a committee.

Table 2: Employee Committees Disestablished By the NLRB, 1972 - 1993: Summary Statistics for Two Eleven-Year Intervals

	1972-1982	1983-1993	Total: 1972-1993
Total number of disestablishment orders	41	17	58
Number of cases in which no ULPs were found (other than §8(a)(2) violations)	3	2	5
Cases in which the committee was formed or used in apparent response to organizing activity	32	12	44
Cases in which a union existed and the employer refused to bargain*	11	7	18
No other ULPs; committee was not formed or used in apparent response to organizing activity	1	1	2

* Some cases involve both union organizing and refusal to bargain, as explained in note 'c' above.